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MONTANA LEGISLATIVE HISTORY

Chapter 271 1989

Bill H 310 S _____ Original bill & history ____C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) Feb 13	✓C	Hearing Date(s) Mar 02	✓C
_____	____C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out Feb 13	✓C	Mar 02	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HB 308 INTRODUCED BY SQUIRES, ET AL.
REVISE LAWS RELATING TO COMMUNITY PROGRAMS FOR SEVERELY DISABLED PERSONS
BY REQUEST OF DEPARTMENT OF SOCIAL & REHABILITATION SERVICES

1/19	INTRODUCED		
1/20	REFERRED TO HUMAN SERVICES & AGING		
2/01	HEARING		
2/04	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/07	2ND READING PASSED	96	1
2/09	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
2/10	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/03	HEARING		
3/07	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/08	2ND READING CONCURRED	49	0
3/10	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/14	2ND READING AMENDMENTS CONCURRED	86	0
3/15	3RD READING AMENDMENTS CONCURRED	90	0
3/21	SIGNED BY SPEAKER		
3/21	SIGNED BY PRESIDENT		
3/22	TRANSMITTED TO GOVERNOR		
3/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 330		
	EFFECTIVE DATE: 07/01/89 (S1-17)		
	EFFECTIVE DATE: 03/27/89 (S18, 19)		

HB 309 INTRODUCED BY HANSON, M.
EXTEND TIME PERIOD FOR TRANSMITTING MUNICIPAL STATEMENT

1/19	INTRODUCED		
1/20	REFERRED TO STATE ADMINISTRATION		
1/27	HEARING		
1/27	COMMITTEE REPORT--BILL PASSED AND PLACED ON CONSENT CALENDAR		
1/31	3RD READING PASSED	95	2
	TRANSMITTED TO SENATE		
2/02	REFERRED TO LOCAL GOVERNMENT		
3/07	HEARING		
3/08	COMMITTEE REPORT--BILL CONCURRED		
3/09	2ND READING CONCURRED	49	0
3/11	3RD READING CONCURRED	41	0
	RETURNED TO HOUSE		
3/17	SIGNED BY SPEAKER		
3/17	SIGNED BY PRESIDENT		
3/18	TRANSMITTED TO GOVERNOR		
3/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 222 EFFECTIVE DATE: 7/01/89		

HB 310 INTRODUCED BY SCHYE
REVISE YOUTH COURT ACT PETITION FILING TIME AND

HEARING PROVISIONS

1/19	INTRODUCED		
1/20	REFERRED TO JUDICIARY		
2/13	HEARING		
2/13	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/15	2ND READING PASSED AS AMENDED	98	0
2/17	3RD READING PASSED	95	0
	TRANSMITTED TO SENATE		
2/18	REFERRED TO JUDICIARY		
3/07	HEARING		
3/07	COMMITTEE REPORT--BILL CONCURRED		
3/08	2ND READING CONCURRED	49	0
3/10	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/17	SIGNED BY SPEAKER		
3/17	SIGNED BY PRESIDENT		
3/18	TRANSMITTED TO GOVERNOR		
3/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 271 EFFECTIVE DATE: 7/01/89		

HB 311 INTRODUCED BY SCHYE
PROVIDE FOR ARBITRATION OF LABOR DISPUTES BETWEEN SCHOOL DISTRICTS AND SCHOOL TEACHERS

1/19	INTRODUCED		
1/20	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/01	HEARING		
2/08	TABLED IN COMMITTEE		

HB 312 INTRODUCED BY CONNELLY, ET AL.
AMEND CUSTODY MODIFICATION STATUTE TO DEFINE "PRIOR CUSTODY DECREE"

1/19	INTRODUCED		
1/20	REFERRED TO JUDICIARY		
1/31	HEARING		
1/31	COMMITTEE REPORT--BILL PASSED		
2/02	2ND READING PASSED	97	0
2/04	3RD READING PASSED	96	0
	TRANSMITTED TO SENATE		
2/06	REFERRED TO JUDICIARY		
3/08	HEARING		
3/09	COMMITTEE REPORT--BILL CONCURRED		
3/10	2ND READING CONCURRED	47	0
3/13	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/18	SIGNED BY SPEAKER		
3/20	SIGNED BY PRESIDENT		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 303 EFFECTIVE DATE: 10/01/89		

HB 313 INTRODUCED BY GRADY, ET AL.
REVISE SKIER RESPONSIBILITY LAW TO ADDRESS SUPREME COURT DECISION

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on February 13, 1989, at 9:05 a.m.

ROLL CALL

Members Present: All members were present.

Members Excused: None.

Members Absent: None.

Staff Present: Julie Emge, Secretary
John MacMaster, Legislative Council

HEARING ON HOUSE BILL 310

Presentation and Opening Statement by Sponsor:

Rep. Schye stated that HB 310 was brought to him by the County Attorney from Glasgow. Rep. Schye explained the bill to the committee.

Testifying Proponents and Who They Represent:

David Nielson, County Attorney for Glasgow
John Connor, Montana County Attorney's Association

Proponent Testimony:

David Nielson stated that HB 310 amends the current statute so as probable cause hearings that are held for juveniles within 24 hours, it allows the Justice of the Peace and City Judges to hold that hearing. Under the current law, only a District Court Judge could hold that hearing and that becomes a problem if they don't have a judge available in that 24 hour period. HB 310 addresses the filing of a petition. This bill amends the time for filing a petition from five working days to seven working days.

John Connor stated that there have been expressions of concern by a number of county attorney's. This causes frustration by the county attorney because he can't get the petition filed within the time limit specified by statute if the judge isn't available. This proposal to the Justice of the Peace and city magistrate to conduct these initial detention hearings expedited the juveniles appearance before some type of judicial officer and would eliminate the problem.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members:

Rep. Brooke asked Mr. Connor where the language was changed on page 5, is there any priortizing that you would do or how would that work? Mr. Connor stated that it would be whoever was available. If there was a Justice of the Peace available in the Courthouse, if not to a city magistrate. One reason for the additional language with respect to municipal or city judges is to provide for the situation where there may not be a Justice of the Peace available.

Closing by Sponsor:

Rep. Schye stated that there wasn't an effective date put on this and they would like an effective date if the committee would see to passing the bill.

DISPOSITION OF HOUSE BILL 310

Motion: Rep. Darko moved HB 310 DO PASS, motion seconded by Rep. Gould.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Eudaily moved to put an effective date on HB 310 of July 1, 1989. Motion seconded by Rep. Knapp.

A vote was taken on the proposed amendment and CARRIED unanimously.

Recommendation and Vote: Rep. Gould moved HB 310 DO PASS AS AMENDED, motion seconded by Rep. McDonough. Motion CARRIED with a unanimous vote.

DISPOSITION OF HOUSE BILL 404

Motion: Rep. Nelson moved to TABLE HB 404. Rep. Wyatt seconded the motion.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken on the motion to TABLE HB 404 and CARRIED unanimously.

DAILY ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date FEB. 13, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

CS-30

STANDING COMMITTEE REPORT

February 13, 1989

Mr. Speaker: We, the committee on Judiciary report that House Bill 310 (first reading copy -- white) do pass as amended .

Signed: _____
Dave Brown, Chairman

And, that such amendments read:

1. Title, line 12.
Following: "RECORDING;"
Insert: "PROVIDING AN EFFECTIVE DATE;"

2. Page 9.
Following: line 3
Insert: "NEW SECTION. Section 3. Effective date. This section is effective on July 1, 1989."

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. H.B. 310 DATE February 13, 1989

SPONSOR Schye

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
David L. Nielsen	Self	X	
John Connor	Mt. County Attys. Assn	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

List of Testifying Proponents and What Group they Represent:

Allen Chronister, State Bar of Montana

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Allen Chronister appeared in support of the bill. He distributed copies of a suggested amendment to the bill. (Exhibit 3) The amendments suggested that there was other language that could be corrected in 61-7-114. The problems related to language about reports not being admissible in civil actions. That has lead to unnecessary and fruitless motions, arguments, briefs, civil actions regarding disclosure or discovery of highway accident reports and whether or not they could be used in trial. He felt they should be allowed as they are the best and often the only sources of information available.

Questions From Committee Members: None

Closing by Sponsor: Representative Addy closed.

DISPOSITION OF HOUSE BILL 295

Discussion: Action on the bill was postponed to a future meeting.

HEARING ON HOUSE BILL 310

Presentation and Opening Statement by Sponsor:
Representative Ted Schye of Glasgow, District 18, opened the hearing saying it had been requested by the county attorney of Glasgow. He said the bill would revise the youth court act petition filing time and hearing provisions. He said that law enforcement has 24 hours to keep a youth before charging him. Sometimes the judges aren't in town as they have to travel a lot, he said, and the next closest judge is in

Wolf Point. He said that a judge must be present to establish probable cause. A ruling from the Attorney General stated that the 24-hour requirement would have to be changed or abided by. He explained the bill, saying that it also changed the petition time from 5 to 7 workdays.

List of Testifying Proponents and What Group they Represent:

John Connor, Prosecutors Services Bureau and several county attorneys who operate in small jurisdictions

List of Testifying Opponents and What Group They Represent:

None

Neutral: Wallace Jewell, Montana Magistrates Association

Testimony:

John Connor said that there are requirements that probable cause must be made before the petition can be filed. The problem is that it has to be done while the youth is incarcerated within 5 working days of his arrest or the action has to be dismissed. In jurisdictions where the judge is only available once a week, it could be impossible to come within the statutory period of time, he said. That is the reason for one change the bill makes, he told the committee. In another provision of the bill, the justice of the peace, a municipal judge or a city court judge will be allowed to make a probable cause determination rather than the district court judge in smaller jurisdictions where judges aren't readily available. He felt the bill would have limited application, but felt it should be passed.

Wallace Jewell said he appeared saying the magistrates could hold probable cause hearings and issue arrest and search warrants. He said they had no particular objection though they weren't searching for things to do.

Questions From Committee Members: Senator Jenkins asked if the bill was only to hold a juvenile for more than 24 hours. Mr. Connor said yes.

Senator Crippen asked how many times and under what circumstances would a justice of peace or city judge keep records. Wally Jewell said that small claims required a record. Senator Crippen asked if record keeping might be a

problem with this bill, since they are not "courts of record." Mr. Connor said it was not discussed in the House, but he saw no problem in making records. It is often done where a reason is provided, such as a homicide case.

Senator Pinsoneault said "of no record" was not really correct. For DUI or other things, standard forms are used providing some record.

Closing by Sponsor: Representative Schye closed the hearing.

DISPOSITION OF HOUSE BILL 310

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Jenkins MOVED that House Bill 310 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

HEARING ON HOUSE BILL 386

Presentation and Opening Statement by Sponsor:

Representative Roger Knapp of Hysham, House District 27, said House Bill 386 was an act dividing liability for taxes on personal property sold under the bankruptcy laws. It will add a Section 4 to the code and was requested by a constituent from his area. He said that property (farm machinery) owned on January 1 by his constituent, might be sold in a bankruptcy sale in the Spring and yet the tax bill for the property comes in November. The constituent thought that the person buying the machinery should pay half of the tax bill as he has had the use of the machinery during the growing season.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony: None

ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 3-7-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL			✓

Each day attach to minutes.

SENATE JUDICIARY
EXHIBIT NO 4
DATE 3/7/89
BILL NO. HB 310

Montana Magistrates Association

7 March 1989

Testimony offered ~~in support of~~ IN SUPPORT OF HB310, a bill for an act entitled: "An act revising the Montana Youth Court Act; changing the time in which a petition charging a youth held in detetion must be filed from 5 working days to 7 working days; allowing hearings to determine probable cause to detain a youth for more than 24 hours to be held by a justice of the peace, a municipal or city judge, or magistrate; providing that records of hearings must be made either by a court reporter or by a tape recording."

Given by Wallace A. Jewell on behalf of the Montana Magistrates Association representing the judges of courts of limited jurisdiction of Montana.

~~We encourage the Senate Judiciary Committee to concur with the House and recommend passage of HB310.~~ The courts of limited jurisdiction now hold probable cause hearings when issuing a search warrant. They hold probable cause hearings when issuing an arrest warrant. They hold probable cause hearings when holding a peliminary examination. Although none of the courts of limited jurisdiction necessarily need anything more to do, the courts of limited jurisdiction are qualified to hold probable cause hearings.

If this legislation is passed and becomes law, at the next semiannual training session conducted by the Supreme Court in May in Missoula, classes will be conducted for the limited jurisdiction judges that explain to them the intricacies of the Youth Court Act. When the bill goes into effect July 1, 1989, the courts of limited jurisdiction will be ready.

~~Again, we urge your concurrence.~~

Wallace A Jewell

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. [redacted] DATE March 7, 1989

SPONSOR

Bill #	NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
HB127	Bill UNGER	Dept. Family Helena, Mt. Services	✓	
HB310	John Connor	Dept of Justice Mt County Atty Assn	✓	
HB310	WALLY JEWELL	MT MAGIS. ASSOC	✓	
HB386	Roger Knapp	H.D #27	✓	

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